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MERCHANT & GOULD (MICROSOFT)			EXAMINER	
P.O. BOX 2903			DESIR, PIERRE LOUIS	
MINNEAPOLIS, MN 55402-0903				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/759,642	<b>Applicant(s)</b> ERIC YEY ET AL.	
	<b>Examiner</b> PIERRE-LOUIS DESIR	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-24 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-24 and 26-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 06/30/2010 have been fully considered but they are not persuasive.

Applicants arguments are entirely related to Bird not being a prior art because, from applicants' point of view, the priority date of Bird is after the filing date of the present application. Bird is an international application that designates Australia and not the United States. As such, Bird does not fall under the gambit of § 102(e) and is, therefore, not afforded the PCT filing date for § 102(e) purposes. Instead, Bird falls under §102(a)-(b) and its priority date is either the date of publication or date of issue. The PCT application to Bird published on May 2, 2004 and the Australian application to Bird published on February 16, 2004.

### **Examiner respectfully disagrees.**

The MPEP discloses the following regarding priority date (see MPEP 706.02(f)(1) [R-5])

I. DETERMINE THE APPROPRIATE 35 U.S.C. 102(e) DATE FOR EACH POTENTIAL REFERENCE BY FOLLOWING THE GUIDELINES, EXAMPLES, AND FLOW CHARTS SET FORTH BELOW:

(A) **The potential reference must be a U.S. patent, a U.S. application publication (35 U.S.C. 122(b)) or a WIPO publication of an international application under PCT Article 21(2) in order to apply the reference under 35 U.S.C. 102(e).**

(B) Determine if the potential reference resulted from, **or claimed the benefit of, an international application**. If the reference does, go to step (C) below. The 35 U.S.C. 102(e) date of a reference that did not result from, nor claimed the

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benefit of, an international application is its earliest effective U.S. filing date, taking into consideration any proper benefit claims to prior U.S. applications under 35 U.S.C. 119(e) or 120 if the prior application(s) properly supports the subject matter used to make the rejection in compliance with 35 U.S.C. 112, first paragraph. See MPEP § 2136.02.

(C) **If the potential reference resulted from, or claimed the benefit of, an international application, the following must be determined:**

(1) **If the international application meets the following three conditions:**

(a) **an international filing date on or after November 29, 2000;**

(b) **designated the United States;** and

(c) **published under PCT Article 21(2) in English,**

then the **international filing date is a U.S. filing date for prior art purposes**

**under 35 U.S.C. 102(e).** If such an international application properly claims benefit to an earlier-filed U.S. or international application, or to an earlier-filed U.S. provisional application, apply the reference under 35 U.S.C. 102(e) as of the earlier filing date, assuming all the conditions of 35 U.S.C. 102(e), 119(e), 120, or 365(c) are met. The subject matter used in the rejection must be disclosed in the earlier-filed application in compliance with 35 U.S.C. 112, first paragraph, in order for that subject matter to be entitled to the earlier filing date under 35 U.S.C. 102(e).

Bird claims priority in regard to PCT/AU03/00954, which was filed after November 29, 2000, designated the United States and published in English. Therefore, the international filing date is a US filing date for the prior art purposes under 35 U.S.C. 102 (e). As such, Bird is a proper prior art.

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Applicants remaining arguments rely on the references not disclosing the limitations for which Bird was cited. And, giving the fact that applicants have not argued that Bird does disclose those limitations other than Bird not being a prior art, Applicants' are found to be not persuasive.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7, 14, 19, 26, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais et al. (US 20020087704 A1) (Chesnais) in view of Bird (previously disclosed).

Regarding claims 1, 14, and 26 Chen discloses a method, system, mobile device messaging and a computer-readable medium comprising: a processor and a memory (inherent part of a system) and comprising

receiving, at a web service client, a request from a user to send content to a mobile device; collecting, from an originating system of the user, information including content data to be sent to the mobile device; generating two or more short messages encapsulating the content data, the short message formatted to be readable by a web service and the content data formatted to be readable by the mobile device; and sending the two or more short messages to the web service for delivery to the mobile device---

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---Chesnais discloses that a message which is to be delivered to a recipient (e.g., a subscriber or a user) can be generated at a sender communications device 208. The system 200, which receives the message generated by the sender, is responsible for directing (i.e., sending) the message to at least one of the recipient's communications device 210. A message (or messages) may be delivered via the system 200 to the recipient within a variety of communication protocols that may be delivered over a variety of communication channels 220. Amongst others, system 200 may be capable of sending messages formatted in the following communication protocols: SMTP, HTML, XML, HDML, WML, VXML, SNPP, SMPP, SIP, SIMPLE, SMDI, Instant Messaging (e.g., AOL IM protocol, Yahoo IM protocol, Jabber IM protocol, Microsoft Messenger, etc.), wireless telephone **Short Messaging Service** (using SMPP and SNPP, for example) and a Sender Application Program Interface using http and socket protocols. Moreover, system 200 as illustrated may be capable of sending messages to communications devices 210 via an email communications channel 220a, an instant messaging communications channel 220b, an HDML/WML formatted communications channel 220c, a **short messaging service** (SMS) communications channel 220d (see paragraph 38).

Although Chesnais discloses a method, system, and medium as described, Chesnais does not specifically disclose a method, system, and medium comprising receiving a response readable by the originating system that indicates a status of delivery of the two or more short messages, wherein said response has one or more result elements, and further wherein each said result element has one or more child elements representing details of said result element, wherein the response identifies the number of the two or more short messages that were unsuccessfully delivered, wherein a first child count element of a first result element indicates a number of the

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one or more short messages delivered successfully, and a second child count element of a second result element indicates a number of the one or more short messages unsuccessfully delivered, and wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessfully delivery of the short messages unsuccessfully delivered.

However, Bird discloses that a whole process of accepting a message from a sender and distributing multiple copies of the message to recipients is referred to as a job. When a job is complete, the message distribution system automatically prepares a job status report for the sender. This report summarizes the outcome of the job (i.e., how many recipient messages were delivered successfully and how many failed) and provides details of success/failure on an individual recipient basis (e.g., how many times delivery to a particular recipient was tried and why it failed) (paragraph 226).

Thus, Bird discloses that the delivery status report contains results elements (i.e., successful and unsuccessful). And, each result element contain one or more child elements, and generating a child element for a one or more of said child elements (i.e., why the message failed).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Chesnais with the teachings described by Bird to arrive at the claimed invention in order to provide a more efficient utilization of SMS to accommodate an increase in subscribers and their usage.

Regarding claims 7, 19, and 32 Chesnais discloses a method and system (see claims 1 and 14 rejection) wherein generating a short message comprises generating an extensible Mark-

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up Language (XML) file including the content data contained in a Short Message Service (SMS) message (see paragraph 38).

4. Claim 10-11 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais in view of Miralles (previously disclosed) and further in view Bird.

Regarding claims 10 and 22, Chen discloses a method and system comprising receiving two or more short messages from a web service client, the two or more short messages formatted to be readable by a web service and containing content data formatted to be readable by a mobile device, wherein the content data was specified by a user request to be sent from an originating system of the user to the mobile device---

---Chesnais discloses that a message which is to be delivered to a recipient (e.g., a subscriber or a user) can be generated at a sender communications device 208. The system 200, which receives the message generated by the sender, is responsible for directing (i.e., sending) the message to at least one of the recipient's communications device 210. A message (or messages) may be delivered via the system 200 to the recipient within a variety of communication protocols that may be delivered over a variety of communication channels 220. Amongst others, system 200 may be capable of sending messages formatted in the following communication protocols: SMTP, HTML, XML, HDML, WML, VXML, SNPP, SMPP, SIP, SIMPLE, SMDI, Instant Messaging (e.g., AOL IM protocol, Yahoo IM protocol, Jabber IM protocol, Microsoft Messenger, etc.), wireless telephone **Short Messaging Service** (using SMPP and SNPP, for example) and a Sender Application Program Interface using http and socket protocols. Moreover, system 200 as illustrated may be capable of sending messages to



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communications devices 210 via an email communications channel 220a, an instant messaging communications channel 220b, an HDML/WML formatted communications channel 220c, a **short messaging service** (SMS) communications channel 220d (see paragraph 38).

Although Chesnais discloses a method and system as described, the combination does not specifically disclose a method and system comprising determining whether a sender of the short message is authentic and authorized to send the short message; and if the sender of the short message is authentic and authorized to send the short message, sending the content data to the mobile device.

However, Miralles discloses a method and system comprising determining whether a sender of the short message is authentic and authorized to send the short message based on sender information in the short message (see paragraphs 65-74); and if the sender of the short message is authentic and authorized to send the short message, sending the content data from the short message to the mobile device (see paragraphs 65-74).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to provide a system wherein high costs and long implementation times can be avoided.

Although the combination discloses a method, system, and medium as described, the combination does not specifically disclose a method, system, and medium comprising receiving a response readable by the originating system that indicates a status of delivery of two or more short messages, wherein said response has one or more result elements, and further wherein each said result elements has one or more child elements representing details of said result elements,

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wherein a first child count element of a first result element indicates a number of the one or more messages delivered successfully, and a second child count element of a second result element indicates a number of the one or more short messages unsuccessfully delivered, and wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessfully delivery of the short messages unsuccessfully delivered

However, Bird discloses that a whole process of accepting a message from a sender and distributing multiple copies of the message to recipients is referred to as a job. When a job is complete, the message distribution system automatically prepares a job status report for the sender. This report summarizes the outcome of the job (i.e., how many recipient messages were delivered successfully and how many failed) and provides details of success/failure on an individual recipient basis (e.g., how many times delivery to a particular recipient was tried and why it failed) (paragraph 226).

Thus, Bird discloses that the delivery status report contains results elements (i.e., successful and unsuccessful). And, each result element contain one or more child elements, and generating a child element for a one or more of said child elements (i.e., why the message failed).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Chesnais with the teachings described by Bird to arrive at the claimed invention in order to provide a more efficient utilization of SMS to accommodate an increase in subscribers and their usage.

Regarding claims 11 and 23, Chesnais discloses a method and system wherein generating a short message comprises generating an extensible Mark-up Language (XML) file

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including the content data contained in a Short Message Service (SMS) message (see paragraph 38).

5. Claims 2-4, 6, 15-16, 18, 27-29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais and Bird, further in view of Miralles.

Regarding claims 2 and 27, the combination of Chesnais and Bird discloses a method and a computer-readable medium (see claim 1 rejection) further comprising receiving the one or more short messages at a web service (see Chesnais' paragraphs 38 and 39).

Although the combination discloses a method and a computer readable medium as described, the combination does not specifically disclose a method and a computer readable medium comprising determining whether a sender of the short message is authentic and authorized to send the short message based on sender information in the short message; and if the sender of the short message is authentic and authorized to send the short message, sending the content data from the short message to the mobile device.

However, Miralles discloses a method and a computer readable medium comprising determining whether a sender of the short message is authentic and authorized to send the short message based on sender information in the short message (see paragraphs 65-74); and if the sender of the short message is authentic and authorized to send the short message, sending the content data from the short message to the mobile device (see paragraphs 65-74).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation

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for doing so would have been to provide a system wherein high costs and long implementation times can be avoided.

Regarding claims 3, 15, and 28, the combination discloses a method and system as described above (see claims 1 and 14 rejection).

Although the combination discloses a method and system as described, the combination does not specifically disclose a method and system wherein collecting information to be sent to the mobile device further comprises collecting sender information, the sender information comprising a sender identification and a sender password.

However, Miralles discloses a method and system wherein collecting information to be sent to the mobile device further comprises collecting sender information, the sender information comprising a sender identification and a sender password (see paragraph 65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to allow secure connection with the system.

Regarding claims 4, 16, and 29, the combination discloses a method and system as described above (see claims 1 and 14 rejection).

Although the combination discloses a method and system as described above, the combination does not specifically disclose a method and system wherein collecting information to be sent to the mobile device further comprises collecting destination information, the destination information comprising a service provider and a cellular telephone number of a destination mobile device.

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However, Miralles discloses a method and system wherein collecting information to be sent to the mobile device further comprises collecting destination information, the destination information comprising a service provider and a cellular telephone number of a destination mobile device (see paragraph 18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to provide a system wherein high costs and long implementation times can be avoided.

Regarding claims 6, 18, and 31, the combination discloses a method and system as described above (see claims 1 and 14 rejection).

Although the combination discloses a method and system as described above, the combination does not specifically disclose a method and system wherein generating a short message further comprises: determining whether the content data is longer than a pre-determined size for the short message; responsive to determining the content data is longer than the pre-determined size for the short message, determining whether to split the content data into multiple portions; responsive to determining to split the content data into multiple portions, splitting the content data into multiple portions, each portion not longer than the predetermined size for the short message; and encapsulating each portion in a separate short message.

However, Miralles discloses a method and system wherein short message composition block 33, if necessary, performs segmentation of the message. In this event, in order to know the maximum size of the message admitted by the mobile telephony network, it is calculated from the DCS parameter and the coding of the characters. The short message composition block

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recovers the short message creation data: DCS, NPI, etc. and builds the new short messages. In the case in which the user data header indicator is not specified in the received message, the value of this is inserted, depending on whether the message has had to be segmented for exceeding the maximum size and the decoded text is introduced in the new short messages. Next the composed short messages are sent to short message transmission block 36 which establishes connection with the SMSC 5 for transmission of the messages to GSM network 10 (see paragraphs 70-72)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to provide a system wherein high costs and long implementation times can be avoided.

6. Claims 5, 8-9, 17, 20, 30, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais and Bird in view of Wood et al. (Wood), International Publication No. WO 03/001819 A2 (cited by applicant).

Regarding claims 5, 8-9, 17, 20-21, 30, 33-34, the combination discloses a method and system as described above (see claims 1, 14 rejection).

Although the combination discloses a method and system wherein collecting information to be sent to the mobile device further comprises collecting delivery information, the combination does not specifically disclose a method and system wherein the delivery information comprising a time and date for the web service to send the content data to the mobile

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device and wherein the XML file (see Chesnais' paragraph 38) including data contained in a MMS message, and sending the short message using SOAP.

However, Wood discloses a method and system wherein the delivery information comprising a time and date for the web service to send the content data to the mobile device (i.e., schedule) (see page 17, line 3), and including data contained in a MMS message (see page 17, lines 8-16), and sending the short message using SOAP (see page 34, lines 9-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to ensure the proper sending of the message.

7. Claims 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais, Bird, and Miralles, further in view of Wood.

The combination discloses a method and system as described.

Although the combination discloses a method and system as described above, the combination does not specifically disclose a method and system wherein the XML file (see paragraph 38 of Chesnais) including data contained in a MMS message.

However, Wood discloses a method including data contained in a MMS message (see page 17, lines 8-16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to ensure the proper sending of the message.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PIERRE-LOUIS DESIR whose telephone number is (571)272-7799. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571)272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PIERRE-LOUIS DESIR/  
Examiner, Art Unit 2617